

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CIVIL DOCKET NO.: 5:13CV111-RLV**

EXELA PHARMA SCIENCES, LLC,)	
Plaintiff,)	
)	
v.)	<u>ORDER</u>
)	
CORNERSTONE THERAPEUTICS, INC.,)	
CORNERSTONE BIOPHARMA, INC., and)	
EKR THERAPEUTICS, LLC,)	
Defendants.)	
)	

THIS MATTER is before the Court on its own motion to inquire as to the status of the litigation. Plaintiff Exela Pharma Sciences, LLC (“Exela”) seeks a judgment from this Court declaring that Plaintiff is not infringing upon Defendants’ 7,659,290 Patent (“the ‘290 Patent”) and that the ‘290 Patent is invalid. (Doc. 5 / Exh. A).

Prior to Plaintiff’s commencement of the instant declaratory judgment action in the Western District of North Carolina, Cornerstone Therapeutics, Inc., Cornerstone Biopharma, Inc., and EKR Therapeutics, LLC (collectively “Cornerstone”) initiated litigation in the United States District Court of the District of Delaware alleging that Plaintiff Exela was infringing upon several of its Cardene® I.V. Premixed Injection patents. (Doc. 26-2).

It is undisputed that the Delaware lawsuit, the first-filed action, implicates the ‘290 Patent at issue here. Defendants Cornerstone requested to transfer venue of Exela’s declaratory judgment action to Delaware, while Exela moved to transfer the Delaware action to this district. (Docs. 24; 34-4).

On October 18, 2013, this matter was ordered **STAYED** by the Magistrate Judge for purposes of deferring to the District of Delaware on questions of transfer and consolidation.

(Doc. 40).

As directed by the Magistrate Judge, the parties submitted a Joint Status Report on December 17, 2013 and advised that the United States District Court for the District of Delaware had not yet rendered any decision on the appropriateness of transfer. (Doc. 41).

IT IS, THEREFORE, ORDERED that the parties are hereby directed to file a Status Report **on or before Wednesday, May 28, 2014.**

Signed: May 13, 2014



Richard L. Voorhees
United States District Judge

